

**Section 1.92, Title 14, California Code of Regulations is added to read:**

Section 1.92 Transgenic

Genetically altered by introducing DNA 1) from 1) another species or 2) through engineered endogenous constructs by means such as but not limited to recombinant DNA and RNA techniques to produce, gene addition, deletion, and doubling, or changing the position of the gene. This definition excludes DNA vaccines, individuals produced by the techniques of whole genome ploidy manipulation, and hybridization between closely related species, as in traditional hybridization.

**Subsection (c)(11) of Section 671, Title 14, California Code of Regulations is added to read:**

(11) Transgenic Aquatic Animals.

Includes freshwater and marine fishes, invertebrates, crustaceans, mollusks, amphibians, and reptiles (D).

Note: Unpermitted transgenic aquatic animals are determined to be detrimental to native wildlife, therefore the exemption provided for in Fish and Game Code Section 2150(e) is not applicable.

NOTE

Authority cited: Sections 2118 and 2120, Fish and Game Code.

Reference: Sections 1002, 2116, 2118, 2118.2, 2118.4, 2119-2155, 2190, 2271, 3005.9 and 3005.92, Fish and Game Code.

**Subsection (a)(9) of Section 671.1, Title 14, California Code of Regulations is added to read:**

(9) Transgenic Aquatic Animals. The department may issue permits for importation, possession, transportation or rearing of, or research on, transgenic aquatic animals pursuant to the following terms and conditions:

(A) All transgenic aquatic animals shall be held, raised, and transported in a closed-water system or in a system which treats effluent discharge from the facility with a disinfection system adequate to ensure against the inadvertent release of live animals. A closed-water system means that there is no discharge to waters of the state. Municipal treated sewage systems are not considered waters of the state. The Commission may grant an exception to this regulation if it is determined that doing so shall not pose a significant risk to the waters or wildlife of the state.

(B) Access to facilities containing transgenic aquatic animals must be restricted through means determined to be adequate by the Department to assure against unauthorized removal of animals.

(C) Movement of live transgenic aquatic animals from facilities is prohibited unless specifically permitted by the Department.

(D) Release of transgenic aquatic animals or their progeny into waters of the state is prohibited.

(E) If transgenic aquatic animals are held with non-transgenic animals of the same species, all such animals that commingle with transgenic animals shall be treated as transgenic for the purposes of regulation and may not be introduced into waters of the state. Nontransgenic individuals that can be individually identified as nontransgenic may be exempt from this provision with prior department approval.

(F) In addition to any other penalty provided by law, any unauthorized release of transgenic aquatic animals or their progeny into the waters of the state may be subject to the penalties provided for under Fish and Game Code Sections 2125, 12007, and/or 12023

(G) A university, college, governmental research agency or other bona fide scientific institution, as determined by the department, may apply for an expedited permit review under 671(b)6 of this section by demonstrating that they meet or exceed the requirements stipulated in subsections (A) through (F) as part of a federal program or permit, for example, National Institute of Health guidelines administered by an Institutional Animal Care and Use Committee (IACUC). Such institutions shall have 120 days from the date of adoption of these regulations to submit supporting documentation for an initial permit.

#### NOTE

Authority: Sections 1002, 2118, 2120, 2122, 2150, and 2150.2, Fish and Game Code.

Reference: Sections 2116-2118, 2190, and 2271, Fish and Game Code.